

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

TIFFANY RECINOS,

Plaintiff,

v.

JUAN RECINOS,

Defendants.

Case No. 3:23-cv-5546-RJB

ORDER TO SHOW CAUSE OR  
FILE AMENDED COMPLAINT

This matter comes before the Court on plaintiff's motion to proceed *in forma pauperis*. Dkt. 1. This matter has been referred for review of the IFP application to the undersigned Magistrate Judge. *Mathews, Sec'y of H.E.W. v. Weber*, 423 U.S. 261 (1976); 28 U.S.C. § 636(b)(1)(B); Local Rule MJR 4(a)(4). For reasons discussed below, plaintiff is ordered to show cause why this cause of action should not be dismissed or file an amended complaint on or before **July 21, 2023**.

FACTUAL BACKGROUND

Plaintiff, proceeding *pro se*, brings this action against defendant, Juan Recinos, whom plaintiff identifies as the biological father to her four children. Dkt. 1-1. Plaintiff also names Washington State, Shannon Barry, an employee of "DSHS" and Abigail Hughes, an employee of "DCS", as defendants. *Id.* Elsewhere in the complaint, plaintiff names the Washington State Department of Corrections, Washington State Department of Social and Health Services, and the Washington State Department of Child Support

1 as defendants. *Id.* at 2-5. Plaintiff alleges the basis for jurisdiction as both federal  
2 question and diversity jurisdiction. *Id.* at 3.

3 Plaintiff claims that she is owed \$3.25 billion U.S. Dollars because her  
4 inheritance was stolen. *Id.* at 5. Specifically, plaintiff states that Juan Recinos stole the  
5 inheritance she received from her grandparents after she was involved in a car  
6 accident, and she appears to challenge the role of various Washington State  
7 departments in the probate proceedings. *Id.* at 6. She is seeking the enforcement of  
8 child support, back payments, alimony, and 100 percent of her inheritance. *Id.* at 7.  
9 Plaintiff attaches 49 pages of documentation in support of her claim, including a 2011  
10 Order prohibiting contact issued in Pierce County Superior Court, a 2023 Order denying  
11 a motion to rescind the no contact order issued in Pierce County Superior Court, a 2022  
12 petition for writ for execution and writ for garnishment filed by plaintiff in Pierce County  
13 Superior Court, a 2011 parenting plan signed by the Pierce County Superior Court, the  
14 Last Will and Testament of Maxene Peterson filed in the Pierce County Clerk's office in  
15 2008, the Last Will and Testament of Keith Peterson filed in the Pierce County Clerk's  
16 Office in 2010, two 2023 notices from the Washington State Department of Social and  
17 Health Services Division of Child Support declining to review the 2011 support order,  
18 and a letter from the Social Security Administration informing plaintiff about her social  
19 security benefits. *Id.* at 8-57.

## 20 DISCUSSION

21 The district court may permit indigent litigants to proceed IFP upon completion of  
22 a proper affidavit of indigency. See 28 U.S.C. §1915(a). However, the court has broad  
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1 discretion in denying an application to proceed IFP. *Weller v. Dickson*, 314 F.2d 598  
2 (9th Cir. 1963), *cert. denied* 375 U.S. 845 (1963).

3 Moreover, a court should “deny leave to proceed *in forma pauperis* at the outset  
4 if it appears from the face of the proposed complaint that the action is frivolous or  
5 without merit.” *Tripati v. First Nat’l Bank & Tr.*, 821 F.2d 1368, 1369 (9th Cir. 1987)  
6 (citations omitted); *see also* 28 U.S.C. § 1915(e)(2)(B)(i). An *in forma pauperis*  
7 complaint is frivolous if “it ha[s] no arguable substance in law or fact.” *Tripati*, 821 F.2d  
8 at 1370 (citing *Rizzo v. Dawson*, 778 F.2d 527, 529 (9th Cir. 1985); *see also Franklin v.*  
9 *Murphy*, 745 F.2d 1221, 1228 (9th Cir. 1984).

10 A *pro se* plaintiff’s complaint is to be construed liberally, but like any other  
11 complaint it must nevertheless contain factual assertions sufficient to support a facially  
12 plausible claim for relief. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Bell Atlantic*  
13 *Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). A claim for relief is facially plausible when  
14 “the plaintiff pleads factual content that allows the court to draw the reasonable  
15 inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at  
16 678.

17 Unless it is absolutely clear that no amendment can cure the defects of a  
18 complaint, a *pro se* litigant is entitled to notice of the complaint’s deficiencies and an  
19 opportunity to amend prior to dismissal of the action. *See Lucas v. Dep’t of Corr.*, 66  
20 F.3d 245, 248 (9th Cir.1995). Leave to amend need not be granted “where the  
21 amendment would be futile or where the amended complaint would be subject to  
22 dismissal.” *Saul v. United States*, 928 F.2d 829, 843 (9th Cir. 1991).

23 A. Subject Matter Jurisdiction  
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1 A federal court has an obligation to determine whether the requirements of  
2 federal subject matter jurisdiction have been met, even if the parties do not bring this  
3 issue to the attention of the court. *Arbaugh v. Y & H Corp.*, 546 U.S. 500, 514 (2006).  
4 Federal subject-matter jurisdiction exists under: (1) diversity jurisdiction and (2) federal-  
5 question jurisdiction. U.S. Const. Art. III §2, cl. 1; 28 U.S.C. §§ 1331, 1332.

6 If there is no basis for federal subject matter jurisdiction, the court must dismiss  
7 the complaint in its entirety. *Arbaugh*, 546 U.S. 500 at 514. “Lack of federal jurisdiction  
8 cannot be waived or be overcome by an agreement of the parties.” *Mitchell v. Maurer*,  
9 293 U.S. 237, 244 (1934); *see also*, *Steel Co. v. Citizens for a Better Environment*, 523  
10 U.S. 83, 94-95 (1998) (“the first and fundamental” question that a federal court must ask  
11 is whether it has Article III jurisdiction, and if the court makes a decision in a case where  
12 the court lacks jurisdiction “a court [would] act ultra vires”).

13 Plaintiff indicates that this Court has both federal question and diversity  
14 jurisdiction over her claim. Dkt. 1-1 at 3. The only bases for federal question jurisdiction  
15 that plaintiff cites are the Ninth Amendment to the Constitution and the Supremacy  
16 Clause of Article Six of the Constitution, however, plaintiff fails to state any causes of  
17 action under either of these principles. Matters of federal question arise under federal  
18 law only when the federal questions arise on the face of the well-pleaded complaint.  
19 *Caterpillar v. Williams*, 482 U.S. 386, 392 (1987).

20 Furthermore, it does not appear that plaintiff’s claim for diversity jurisdiction is  
21 availing. First, all but one of the defendants named in plaintiff’s complaint are  
22 Washington State, departments of Washington State, and apparent employees of these  
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1 departments, and plaintiff indicates that the remaining defendant's "citizenship" is  
2 currently unknown. See Dkt. 1-1 at 5.

3 However, even if Juan Recinos were determined to be a citizen of a state other  
4 than Washington for the purpose of diversity jurisdiction, to the extent that plaintiff seeks  
5 this Court to manage issues arising out of alimony or child custody disputes, the  
6 diversity between the parties would not confer jurisdiction because these claims fall into  
7 the domestic relations exception to federal diversity jurisdiction. *Bailey v. MacFarland*, 5  
8 F.4th 1092, 1095 (9th Cir. 2021); *see also Marshall v. Marshall*, 547 U.S. 293, 307  
9 (2006). Additionally, to the extent that plaintiff seeks this Court to probate her  
10 grandparents' wills or administer the estates of her grandparents, the diversity between  
11 the parties would not confer jurisdiction because these claims fall into the probate  
12 exception to federal diversity jurisdiction. *Goncalves By & Through Goncalves v. Rady*  
13 *Children's Hosp. San Diego*, 865 F.3d 1237, 1252 (9th Cir. 2017); *see also Marshall v.*  
14 *Marshall*, 547 U.S. 293, 311 (2006)

### 15 CONCLUSION

16 Due to the deficiencies described above, it appears that plaintiff's complaint is  
17 subject to dismissal. Plaintiff may show cause why the complaint should not be  
18 dismissed or may file a proposed amended complaint to cure, if possible, the  
19 deficiencies noted herein, on or before **July 21, 2023**.

20 If an amended complaint is filed, it must be legibly written or retyped in its entirety  
21 and contain the same case number. Any cause of action alleged in the original  
22 complaint that is not alleged in the amended complaint is waived. *Forsyth v. Humana*,  
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1 *Inc.*, 114 F.3d 1467, 1474 (9th Cir. 1997), *overruled in part on other grounds*, *Lacey v.*  
2 *Maricopa Cnty.*, 693 F.3d 896 (9th Cir. 2012).

3 The Court will screen the amended complaint to determine whether it states a  
4 claim. If the amended complaint is not timely filed or fails to adequately address the  
5 issues raised herein, the undersigned will recommend dismissal of this action as  
6 frivolous under 28 U.S.C. § 1915.

7 The Clerk is directed to send plaintiff, a copy of this Order and the *Pro Se*  
8 information sheet, and to re-note plaintiff's IFP application for July 21, 2023.

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10 Dated this 5th day of July, 2023.

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14 Theresa L. Fricke  
15 United States Magistrate Judge  
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